



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-433-812, A-423-812, A-351-847, A-580-887, A-583-858, A-489-828, C-580-888]

Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey; Antidumping and Countervailing Duty Investigations: Preliminary Determinations of Critical Circumstances

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) preliminarily determines that critical circumstances exist for imports of certain carbon and alloy steel cut-to-length plate (CTL plate) from certain producers and exporters from Austria, Belgium, Brazil, Taiwan, and Turkey.

DATES: Effective [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Edythe Artman at (202) 482-3931

(Austria), Elizabeth Eastwood at (202) 482-3874 (Belgium), Mark Kennedy at (202) 482-7883 (Brazil), Steve Bezirgianian at (202) 482-1131 (Korea-AD), John Corrigan at (202) 482-7438 (Korea – CVD), Tyler Weinhold at (202) 482-1121 (Taiwan), or Dmitry Vladimirov at (202) 482-0665 (Turkey), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230.

## SUPPLEMENTARY INFORMATION:

### Background

In response to petitions filed on April 8, 2016,<sup>1</sup> the Department of Commerce (the Department) initiated antidumping duty (AD) investigations concerning imports of CTL plate from Austria, Belgium, Brazil, the People's Republic of China (PRC), France, the Federal Republic of Germany (Germany), Italy, Japan, the Republic of Korea (Korea), South Africa, Taiwan, and Turkey<sup>2</sup> and countervailing duty (CVD) investigations concerning CTL plate from Brazil, the PRC, and Korea.<sup>3</sup> On July 26, 2016, the Department received timely allegations, pursuant to sections 703(e)(1) and 733(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206, that critical circumstances exist with respect to imports of CTL plate from Austria, Belgium, Brazil, Korea, Taiwan, and Turkey.<sup>4</sup> Based on information provided by the petitioners, data placed on the record of these investigations by the mandatory respondents, and data collected by the Department from Global Trade Atlas (GTA), the Department preliminarily determines that critical circumstances exist for imports of CTL plate from certain producers and exporters from Austria, Belgium, Brazil, Taiwan, and Turkey.

Pursuant to 19 CFR 351.206(c)(2), the petitioners requested that the Department issue a preliminary affirmative determination of critical circumstances on an expedited basis. In accordance with sections 703(e)(1) and 733(e)(1) of the Act, because the petitioners submitted

---

<sup>1</sup> See *Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, the People's Republic of China, France, the Federal Republic of Germany, Italy, Japan, the Republic of South Africa, Taiwan, and Turkey – Petitions for the Imposition of Antidumping and Countervailing Duties*, dated April 8, 2016 (collectively, the petitions). The petitioners for these investigations are ArcelorMittal USA LLC, Nucor Corporation, and SSAB Enterprises, LLC (the petitioners).

<sup>2</sup> See *Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, France, the Federal Republic of Germany, Italy, Japan, the Republic of Korea, the People's Republic of China, South Africa, Taiwan, and the Republic of Turkey: Initiation of Less-Than-Fair-Value Investigations*, 81 FR 27089 (May 5, 2016).

<sup>3</sup> See *Certain Carbon and Alloy Steel Cut-to-Length Plate From Brazil, the People's Republic of China, and the Republic of Korea: Initiation of Countervailing Duty Investigations*, 81 FR 27098 (May 5, 2016).

<sup>4</sup> See *Certain Carbon and Alloy Steel Cut-To-Length Plate From Austria, Belgium, Brazil, the Republic of Korea, Taiwan, and Turkey: Critical Circumstances Allegations*, July 26, 2016 (Allegations).

their critical circumstances allegations more than 20 days before the scheduled date of the final determination, the Department must promptly issue preliminary critical circumstances determinations.

Section 703(e)(1) of the Act provides that the Department will determine that critical circumstances exist in CVD investigations if there is a reasonable basis to believe or suspect: (A) that “the alleged countervailable subsidy” is inconsistent with the Agreement on Subsidies and Countervailing Measures (SCM Agreement) of the World Trade Organization, and (B) that “there have been massive imports of the subject merchandise over a relatively short period.” Section 733(e)(1) of the Act provides that the Department will preliminarily determine that critical circumstances exist in AD investigations if there is a reasonable basis to believe or suspect: (A)(i) that “there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise,” or (ii) that “the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales,” and (B) that “there have been massive imports of the subject merchandise over a relatively short period.” Section 351.206(h)(2) of the Department’s regulations provides that, generally, imports must increase by at least 15 percent during the “relatively short period” to be considered “massive” and section 351.206(i) defines a “relatively short period” as normally being the period beginning on the date the proceeding begins (*i.e.*, the date the petition is filed)<sup>5</sup> and ending at least three months later.<sup>6</sup> The regulations also provide, however, that, if the Department “finds that importers, or exporters or producers, had reason to

---

<sup>5</sup> See 19 CFR 351.102(b)(40) (providing that a proceeding begins on the date of the filing of a petition).

<sup>6</sup> See 19 CFR 351.206(i).

believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,” the Department “may consider a period of not less than three months from that earlier time.”<sup>7</sup>

#### Alleged Countervailable Subsidies are Inconsistent with the SCM Agreement

To determine whether an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, the Department considered the evidence currently on the record of the Korea CVD investigation. Specifically, as determined in our initiation checklist, the following subsidy programs, alleged in the petition and supported by information reasonably available to the petitioners, appear to be either export contingent or contingent upon the use of domestic goods over imported goods, which would render them inconsistent with the SCM Agreement: Korean Export-Import Bank Short-Term Export Credits; Korean Export-Import Bank Export Factoring; Korean Export-Import Bank Export Loan Guarantees; Korean Export-Import Bank Trade Bill Rediscounting Program; Korea Development Bank (KDB) Short-Term Discounted Loans for Export Receivables; Loans under the Industrial Base Fund; Korea Trade Insurance Corporation (K-SURE) Short-Term Export Credit Insurance; and K-SURE Export Credit Guarantees.<sup>8</sup>

Therefore, the Department preliminarily determines for purposes of this critical circumstances determination that there are alleged subsidies in the Korea CVD investigation that are inconsistent with the SCM Agreement.

#### History of Dumping and Material Injury/Knowledge of Sales Below Fair Value and Material Injury

In order to determine whether there is a history of dumping pursuant to section 733(e)(1)(A)(i) of the Act, the Department generally considers current or previous AD orders on

---

<sup>7</sup> *Id.*

<sup>8</sup> *See* Korea CVD Initiation Checklist, April 28, 2016, at 7 - 16.

subject merchandise from the country in question in the United States and current orders imposed by other countries with regard to imports of the same merchandise.<sup>9</sup> Although the Department has not previously issued, nor are we aware of any other World Trade Organization member issuing, AD orders on CTL plate from the six countries, the petitioners point to a pattern of dumping of similar merchandise by companies subject to these investigations.

To determine whether importers knew or should have known that exporters were selling at less than fair value, we typically consider the magnitude of dumping margins, including margins alleged in petitions.<sup>10</sup> The Department has found margins of 15 to 25 percent (depending on whether sales are export price sales or constructed export price sales) to be sufficient for this purpose.<sup>11</sup> The Department initiated these AD investigations based on the following estimated dumping margins: (1) Austria ranges from 35.50 to 121.90 percent; (2) Belgium is 51.78 percent; (3) Brazil is 74.52 percent; (8) Korea ranges from 44.70 to 248.64; (10) Taiwan ranges from 8.30 to 77.13 percent; and (11) Turkey ranges from 34.03 to 50.00 percent.<sup>12</sup> All of these margins are above the 15 to 25 percent threshold.<sup>13</sup> Therefore, on that

---

<sup>9</sup> See *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances and Postponement of Final Determination*, 74 FR 59117, 59120 (November 17, 2009) unchanged in *Certain Oil Country Tubular Goods from the People's Republic of China: Final Determination of Sales at Less Than Fair Value, Affirmative Final Determination of Critical Circumstances and Final Determination of Targeted Dumping*, 75 FR 20335 (April 19, 2010).

<sup>10</sup> See, e.g., *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157, 19158 (April 18, 2002) (unchanged in the final determination).

<sup>11</sup> See, e.g., *Preliminary Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the People's Republic of China*, 62 FR 31972, 31978 (June 11, 1997) (unchanged in the final determination) and *Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672 (July 16, 2004) (unchanged in the final determination).

<sup>12</sup> See *CTL Plate Initiation of Less-Than-Fair-Value Investigations*, 81 FR 27089, 27094. These margins differ from those in the petitions with respect to Austria, Brazil, Korea, and Taiwan.

<sup>13</sup> Although the lowest margin for Taiwan is below the threshold, the Taiwan margins ranged as high as 77.13 percent which is well above the threshold.

basis, we preliminarily conclude that importers knew or should have known that exporters in all six countries were selling subject merchandise at less than fair value.

To determine whether importers knew or should have known that there was likely to be material injury, we typically consider the preliminary injury determinations of the International Trade Commission (ITC).<sup>14</sup> If the ITC finds material injury (rather than the threat of injury), we normally find that the ITC's determination provided importers with sufficient knowledge of injury. In these investigations, the ITC's preliminary finding of material injury by reason of imports of CTL plate from, *inter alia*, Austria, Belgium, Brazil, Korea, Taiwan, and Turkey is sufficient to impute knowledge of the likelihood of material injury for each of these countries.<sup>15</sup>

#### Massive Imports

In determining whether there have been “massive imports” over a “relatively short period,” pursuant to sections 703(e)(1)(B) and 733(e)(1)(B) of the Act, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the “base period”) to a comparable period of at least three months following the filing of the petition (*i.e.*, the “comparison period”). Imports normally will be considered massive when imports during the comparison period have increased by 15 percent or more compared to imports during the base period.

Thus, because the petitions were filed on April 8, 2016, in order to determine whether there has been a massive surge in imports for each cooperating mandatory respondent, the Department compared the total volume of shipments during the period April 2016 through June

---

<sup>14</sup> See, e.g., *Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation*, 75 FR 24572, 24573 (May 5, 2010), unchanged in *Certain Potassium Phosphate Salts from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Termination of Critical Circumstances Inquiry*, 75 FR 30377 (June 1, 2010).

<sup>15</sup> See *Certain Carbon and Alloy Steel Cut-to-Length Plate from Austria, Belgium, Brazil, China, France, Germany, Italy, Japan, Korea, South Africa, Taiwan, and Turkey*, Inv. Nos. 701-TA-559-561 and 731-TA-1317-1328 (Preliminary), USITC Publication 4615, May 2016) at 1.

2016 with the volume of shipments during the preceding three-month period of January 2016 through March 2016. For Brazil and Turkey, because the mandatory respondents refused to participate in the investigations, we determine, on the basis of adverse facts available, that there has been a massive surge in imports. For “all-others,” the Department relied on GTA data which demonstrates that the volume of CTL plate from Brazil and Turkey increased massively in the three month period April 2016 through June 2016 when compared to the prior three-month period.<sup>16</sup>

For the cooperating respondents in the investigations on Austria, Belgium, Korea, and Taiwan, we compared the total volume of shipments during the period April 2016 through June 2016 with the volume of shipments during the preceding three-month period of January 2016 through March 2016. For “all-others,” the Department compared GTA data for the same time periods.<sup>17</sup> We subtracted shipments reported by the mandatory respondents from the GTA data. With respect to Korea, the shipment data do not demonstrate massive surges in imports for any producers/exporters. Therefore, we are reaching a preliminary negative critical circumstances determination with respect to Korea. With respect to Austria, Belgium, and Taiwan, we preliminarily determine the following producers/exporters had massive surges in imports.<sup>18</sup>

- Austria (A-433-812): voestalpine Grobblech GmbH, voestalpine Steel & Service Center GmbH, Bohler Edelstahl GmbH & Co. KG, BOHLER Bleche GmbH & Co. KG, Bohler Uddeholm Corporation, and Strudell Industries, Inc. (collectively, Voestalpine);

---

<sup>16</sup> See respective preliminary critical circumstances memoranda for each proceeding, dated concurrently with this notice.

<sup>17</sup> The Department gathered GTA data under the following harmonized tariff schedule numbers: 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7225.40.1110, 7225.40.1180, 7225.40.3005, 7225.40.3050, 7226.20.0000, and 7226.91.5000.

<sup>18</sup> See respective preliminary critical circumstances memoranda for each proceeding, dated concurrently with this notice.

- Belgium (A-423-812): Industeel Belgium SA and NLMK Clabecq
- Taiwan (A-583-858): China Steel Corporation and All-Other producers/exporters.

### Conclusion

Based on the criteria and findings discussed above, we preliminarily determine that critical circumstances exist with respect to imports of CTL plate shipped by certain producers/exporters. Our findings are summarized as follows.

<u>Country</u>	<u>Case Number</u>	<u>Affirmative Preliminary Critical Circumstances Determinations</u>	<u>Negative Preliminary Critical Circumstances Determinations</u>
Austria	A-433-812	Voestalpine	All-Other producers/exporters
Belgium	A-423-812	Industeel Belgium SA, NLMK Clabecq	All-Other producers/exporters
Brazil	A-351-847	All producers/exporters	
Korea	A-580-887		POSCO/ POSCO Daewoo Corporation, All-Other producers/exporters
Korea	C-580-888		POSCO/ POSCO Daewoo Corporation , All-Other producers/exporters
Taiwan	A-583-858	China Steel Corporation All-Other producers/exporters	Shang Chen Steel Co., Ltd.
Turkey	A-489-828	All producers/exporters	

### Final Critical Circumstances Determinations

We will issue final determinations concerning critical circumstances when we issue our final countervailing duty and less than fair value determinations. All interested parties will have the opportunity to address these determinations in case briefs to be submitted after completion of the preliminary countervailing duty and less than fair value determinations.



### ITC Notification

In accordance with sections 703(f) and 733(f) of the Act, we will notify the ITC of our determinations.

### Suspension of Liquidation

In accordance with section 733(e)(2) of the Act, because we preliminarily found that critical circumstances exist with regard to exports made by certain producers and/or exporters, if we make an affirmative preliminary determination that sales at less than fair value have been made by these same producers/exporters at above *de minimis* rates,<sup>19</sup> we will instruct Customs and Border Protection (CBP) to suspend liquidation of all entries of subject merchandise from these producers/exporters that are entered, or withdrawn from warehouse, for consumption on or after the date that is 90 days prior to the effective date of “provisional measures” (*i.e.*, the date of publication in the *Federal Register* of the notice of an affirmative preliminary determination of sales at less than fair value at above *de minimis* rates). At such time, we will also instruct CBP to require a cash deposit equal to the estimated preliminary dumping margins reflected in the preliminary determination published in the *Federal Register*. This suspension of liquidation will remain in effect until further notice.

Because we preliminarily found that critical circumstances do not exist with respect to the CVD investigation of CTL plate from Korea, we will not order any retroactive suspension of liquidation under section 703(e)(2) of the Act in the event of an affirmative preliminary countervailing duty determination in this investigation.

---

<sup>19</sup> The preliminary determinations concerning sales at less than fair value are currently due on September 15, 2016.

This notice is issued and published pursuant to section 777(i) of the Act and 19 CFR 351.206(c)(2).

Dated: August 30, 2016.

---

Christian Marsh,  
Deputy Assistant Secretary  
for Antidumping and Countervailing Duty Operations.

[FR Doc. 2016-21501 Filed: 9/6/2016 8:45 am; Publication Date: 9/7/2016]